

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**SANSTON M. FOSTER IV,  
SANDRA “KITTY” SMITH,  
HEATHER NELMS, and  
ANGELA COURTNEY,  
Individually and on Behalf  
of all Others Similarly Situated**

**PLAINTIFFS**

**v.**

**Case No. 4:13-cv-00421-JMM**

**LINDSEY MANAGEMENT CO., INC.  
FOUNTAIN LAKES, A LIMITED  
PARTNERSHIP, and FOUNTAIN LAKES  
MANAGEMENT COMPANY, INC.**

**DEFENDANTS**

**DEFENDANTS’ MOTION TO DISMISS  
OR STRIKE CLASS ALLEGATIONS**

Come now Defendants Lindsey Management Co., Inc, Fountain Lakes, a Limited Partnership, and Fountain Lakes Management Company, Inc., and for their Motion to Dismiss or Strike Class Allegations pursuant to Rules 12(c) and (f) and 23(d)(1)(D) of the Federal Rules of Civil Procedure, state:

1. Plaintiffs seek to represent a class of persons who have resided in Arkansas apartment complexes managed by Defendant Lindsey Management Co., Inc., in the last five years.

2. As articulated in greater detail in the supporting brief filed contemporaneously herewith, it is plain enough from the pleadings that class treatment of this case is not appropriate. A class action would require litigation of many highly individualized questions of fact because, among other things, it would involve residents

who resided in different apartments in different locations and who heard specific representations made to them, and who encountered different problems with the apartments during the periods of the apartment's lease. The class allegations within the Second Amended Complaint should be dismissed or stricken because Plaintiffs cannot satisfy any of the three specific class certification categories in Rule 23(b).

WHEREFORE, Lindsey Management Co., Inc, Fountain Lakes, a Limited Partnership, and Fountain Lakes Management Company, Inc., pray that the class allegations found within the Second Amended Complaint are dismissed or stricken pursuant to Rules 12(c) and (f) and 23(d)(1)(D) of the Federal Rules of Civil Procedure and for all other just and proper relief to which they may be entitled.

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

Mickey Stevens  
P.O. Box 2165  
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/s/ John Keeling Baker  
John Keeling Baker